

## **Resolution Number TC-1930**

BE IT HEREBY RESOLVED, the Transportation Commission's Special and Regular Meeting Minutes of November 17 & 18, 2010 are hereby approved as published in the official agenda of the December 16, 2010 Meeting.

### **Transportation Commission of Colorado Regular Meeting Minutes November 17 & 18, 2010**

**Chairman Les Gruen convened the meeting at 9:33 a.m. in the auditorium of the headquarters building in Denver Colorado.**

PRESENT WERE: Les Gruen, Chairman, District 9  
Steve Parker, Vice Chair, District 8  
Trey Rogers, District 1  
Jeanne Erickson, District 2  
Gary Reiff, District 3  
George Krawzoff, District 6  
Doug Aden, District 7  
Herman Stockinger/Secretary, Government Relations Director

EXCUSED: Heather Barry, District 4  
Bill Kaufman, District 5  
Gilbert Ortiz, Sr., District 10  
Kimbra L. Killin, District 11

ALSO PRESENT: Executive Director, Russ George  
Pam Hutton, Chief Engineer  
Jennifer Finch, Transportation Development Director  
Heidi Bimmerle, Director, Division of Human Resources and Administration  
Casey Tighe, Audit Director  
Rick Gabel, Staff Services Director  
Ben Stein, CFO  
Mark Imhoff, Division of Transit and Rail Director  
Michael Cheroutes, High Performance Transportation Enterprise Director  
Tony DeVito, Region 1 Transportation Director  
Tim Harris, Region 2 Transportation Director  
Dave Eller, Region 3 Transportation Director  
Johnny Olson, Region 4 Transportation Director  
Richard Reynolds, Region 5 Transportation Director  
Reza Akhavan, Region 6 Transportation Director  
Harry Morrow, Chief Transportation Counsel  
Doug Bennet, FHWA

Vince Rogalski, Statewide Transportation Advisory  
Committee (STAC) Chairman  
Dave Wieder, Maintenance and Operations Branch Manager

AND: Other staff members, organization representatives,  
the public and the news media

Two audiotapes of the meeting were made and supporting documents are filed in the Transportation Commission office.

### **Audience Participation**

There were no requests for Audience Participation.

### **Individual Commissioner Comments**

Commissioner Erickson stated that she had an impressive day at the Region 6 Military Recognition Ceremony and that she found it an honor and a privilege to meet many fine staff members of Region 6 and that the service branches and length of service was varied and impressive. She thanked Reza Akhavan for being an excellent host. She mentioned that she had gone to the PACT meeting for the PEIS and that it was an interesting day with many people in the room who were able to really see how the East I-70 corridor could be a better part of the community.

Commissioner Krawzoff began his comments by stating that since the last meeting he had attended, he and his wife had moved from Steamboat Springs to Fort Collins. Since he has moved, he has effectively resigned the Commission seat he holds. He declared that it had been his great honor to serve and that it had been a privilege to serve. He stated that he was leaving with the greatest respect for the people of CDOT and he thanked all of the Commissioners and everybody in the room for the kindness and patience that they had shown to him and the honor that have been given to his opinions. Mr. Krawzoff thanked everyone and exited the meeting.

Commissioner Aden stated that he had participated in a video conference for the first time and that the TPR and MPO members from Region 3 were in Denver for the STAC meeting and that following the STAC meeting, he, Dave Eller and Region 3 Staff who were in Grand Junction, were able to have a meeting using the video conference equipment at Region 3 and Headquarters. He stated that the meeting was successful and that Dave and the Region 3 staff had guided the Intermountain TPR through the process and they were able to update the STIP. He reported that the Intermountain TPR had one more meeting to prioritize their list and that Dave Eller and the Region 3 staff had done a great job with the process.

Commissioner Parker reported that he had gone to Alamosa with the Region 5 staff for the San Luis Valley TPR meeting and that there hadn't been a meeting in quite awhile and that it was terrific that all but one of the Counties in the TPR was represented. He stated that they seemed to be ready to be actively engaged moving into the next year. He declared that he wanted to thank CDOT for the Veteran's recognition on Military

Appreciation Day and that as a Vietnam veteran; he was thrilled to be a part of the ceremony in Durango and to see how many former members of the armed forces in all of the branches were in attendance.

Chairman Gruen stated that he wanted to offer the sympathies of CDOT to Commissioner Bill Kaufman and his family at the loss of his mother and that this was the reason for Commissioner Kaufman's absence at the meeting.

### **Executive Director's Report**

Executive Director Russ George stated that CDOT Headquarters held an event for Military Appreciation Day on Monday, November 8, 2010 to kick off the week of the National observance of Veteran's Day. He thanked all of the CDOT Staff who put the ceremony together and those who were present at the ceremony.

Director George declared that for regular meetings in the month of November, he had gone to DUSPA board meeting and moved from the 1<sup>st</sup> chair, the voting position for the board from CDOT to 2<sup>nd</sup> chair and Mark Imhoff, Director of Transit and Rail has taken the 1<sup>st</sup> chair and will be the voting representative. Mr. George confirmed that he is very appreciative of the work that Mark has done.

Mr. George mentioned that the Regional Air Quality Commission is meeting regularly and has been discussed in the past. He said that the significant focus of its work is the ozone and the vehicle miles traveled and it is recognized that vehicles are contributing to the ozone issue in the region and that CDOT is very active and is participating in these meetings.

He reported that the East I-70 preferred alternative collaborative team meetings continue to be held and are made up of 26 members from local governments, interested businesses and local citizens. Mr. George reported that FHWA and CDOT have been present and participating in the heavy difficult discussions and that there is a lot of detail in the project as it is quite complex with lots of different interests to sort through. He stated that progress is being made and a collaborative decision on the preferred alternative may be reached within the next 6 months which is the key to moving forward, stepping up design, and making decisions about costs.

Mr. George mentioned that the STAC continues to meet and is increasingly engaged in detail providing CDOT with good debate, discussion and good advice and he thanked Vince Rogalski for his role in the STAC – CDOT relationship.

Mr. George said that he and John Cater had resumed a good habit which consists of the FHWA and CDOT leadership meeting each month to talk about whatever is going on and that as this has been a very productive event each month in the past, it continued to be so in November.

He stated that he had many opportunities to give presentations in an outreach effort:

- He spoke at the University of Colorado School of Public Affairs panel discussion on infrastructure.

- He gave the keynote address at the FHWA “Every Day Counts” program and there were many CDOT Staff members in attendance. He requested that Doug Bennet explain Every Day Counts program to the Commission as they would be very interested in the program
- He delivered the Welcome address to the Green Streets and Highways Conference as many CDOT Staff were presenting and participating in the event and there was a lot of good teaching and learning taking place.

Mr. George reported that at DRCOG’s monthly meeting on Wednesday, November 17, they invited CDOT to make two presentations. He reported that one was presented by Herman Stockinger and Melissa Nelson on Devolution and that the second was a presentation about the Bridge Enterprise given by Pam Hutton and Ben Stein. He mentioned that it was the first time that DRCOG had been given detailed information on the Bridge Enterprise and that it was very timely and added the latest thinking about the I-70 Viaduct. He thanked Steve Rudy for the invitation and for giving CDOT the opportunity to present at that meeting and for the courtesy, respect and support he provided to the CDOT Staff that were present.

Mr. George concluded by reporting on the recent AASHTO Annual Meeting. He said that CDOT was very active at the conference and led many activities for a variety of sessions to include the Standing Committee on Finance, the Standing Committee on Highways and in these instances the conversation was led by CDOT Staff. He declared that he and the staff in attendance took the opportunity to give presentations at workshops on managed lanes and livability and that they weighed in on the debate in the Board of Directors meeting and that all in all CDOT is certainly carrying its weight at AASHTO and he thanked the staff.

### **Chief Engineer Report**

Chief Engineer Pam Hutton stated that her presentation would include the following items:

Summary:

- ARRA Update
- FASTER
- EDC Summit Denver
- AASHTO Annual Meeting

ARRA Update

- Obligation update
- Last four projects
  - Pitkin Coke Ovens - advertised
  - Greeley #3 Ditch Bike/Pedestrian Trail - advertised
  - I-70 Agate to KS concrete resurfacing – awarded, NTP 11/2/2010
  - SH 550 Colona to Chipeta resurfacing – awarded, NTP 11/5/2010

- Project Activity / Jobs – continued slowing
- Project Update
  - Accepted 4 more projects from the contractor (total 52)
  - No more closed out from last month (still 17)

## FASTER Safety

- Status
  - Under Construction – 21 worth \$49M
  - Awarded or pending (have not begun work) – 10
  - Currently under design – 47

## AASHTO Annual Meeting

- Meeting of several committees:
  - Highways, Technology, Transportation Finance Policy, Rail, Asset Management, Climate Change, Reauthorization, Performance Management, Planning, WASHTO, Board of Directors
- Key Discussions:
  - Performance Measures
  - MUTCD
  - Authorization
  - Truck Size & Weight

## FHWA Every Day Counts

- CDOT attended Western States Summit in Denver on November 9-10
- EDC is Administrator Mendez's initiative of urgency to improve efficiency and accountability, enhance safety, and protect the environment.
- EDC Program
  - Establish baseline and plan for implementation
  - CDOT, FHWA, and stakeholders met, decided to focus on 11 initiatives poised for further implementation

## **High Performance Transportation Enterprise (HPTE) Director's Report**

Director Mike Cheroutes stated that he appreciated having a spot on the Agenda and that the HPTE had been spending a lot of time on the US 36 project and that there have been a number of key meetings with the US 36 mayors, county commissioners and the coalition and continue to work well with the group. He reported that Steve Rudy of DRCOG had taken the time to go through the context of DRCOG's involvement in the process with Mr. Cheroutes. He declared that the staff at FHWA had been very cooperative and helpful and that the bottom line is that they are close to having a package put together that will get work started on segment 1 and that there are strong numbers from revenue projections for segments 2 and 3 and he stated it would be reasonable to think that the project could be ultimately put together to get it to Boulder. Mr. Cheroutes stated that they had also spoken to the staff at Region 4 about

how the HPTE could help more with the I-25 hot lanes and that the latest number run had been provided to the Commission and that it is showing a gap in funding but they are using further discussions to close the gap. He stated that he intended to ask the board of the HPTE for authority to move forward to commit to the TIFIA application process and that the deadline is January 2011. He confirmed that the request involves extra expenditure and commitment by the HPTE and that he has reason to be optimistic about the project and the commitment to move forward.

### **FHWA Division Administrator Report**

Doug Bennett declared that he happened to be at the CDOT Headquarters building on the morning of the Military Appreciation day and that he was pleased to be able to attend the ceremony and would plan to attend in future based on the positive experience this year's ceremony had provided.

He declared that FHWA's "Every Day Counts Program" is the personal initiative of Victor Mendez's, the Federal Highways Administrator. He stated that a lot of time had been spent bringing the FHWA staff up to speed in the various technologies, innovative areas so that they can work hand-in-hand with the states with nearly a dozen regional summits around the country to include a very successful summit held recently in Denver. He reported that he sees that CDOT is stepping up and embracing the program and that this was clear in Russ George's lunchtime speech. He declared that the example of the most success so far is in the 16 different areas of technology and contract delivery that can be used to move things forward and shorten project delivery and also in different ways to innovatively contract out the work.

He confirmed that the I-70 West Collaborative effort and the environmental process will soon be closed and that because of the CDOT staff's work in conjunction with FHWA, Monica Pavlik, an FHWA Engineer in charge of the project was given an award at the National level from FHWA demonstrating National success for the staff at the Colorado FHWA.

### **STAC Report**

Vince Rogalski stated that the STAC had its regular meeting on Friday, November 12, 2010 and that they received reports on the following topics:

- Introduction of new Directors
  - John Cater, Colorado FHWA Division Director
  - Mark Imhoff, Director of Division Transit and Rail
  - Michael Cheroutes, Director of HPTE
- Report of the October 20 & 21 actions of the Transportation Commission
- Discussion on Devolution
  - STAC is opposed to Devolution as it is currently being presented
  - Proactive dealing with the study and look at the State as a whole
  - A subcommittee was formed to draft a December Resolution

- State and Federal Legislation update
- Bridge, Pavement and Maintenance Levels of Service
- Bridge Enterprise Update
- Update on Plan Amendment for the 2035 Plan

## **Committee Reports**

### **Transit & Intermodal Committee**

Commissioner Erickson delivered the following report:

- We had one main issue on our agenda—consideration of a request from the City of Colorado Springs. As you may recall, when the Commission allowed the sale of nine FREX buses last year, there was \$440,000 put in escrow from the sale proceeds after \$1 million was allowed to be used for FREX operations. The City has requested that they be allowed to use those escrow funds for 2011 FREX operations.
- Staff presented us a range of four options for responding. Staff recommended allowing the City to use just half of the escrowed funds in 2011 (\$220,000). We also heard a presentation from City staff. They acknowledged the City's budget problems but said revenues are slowly growing and the City Council is poised to decide which transit services may be partly restored. They pointed out that FREX has seen a ridership growth, is successful and popular, and that the City could live with the use of just half the escrow in 2011.
- The Committee had a lively discussion. Concerns were expressed about transferring capital into operating, and about the City not making a strong enough effort to extract some funding from RTD. It was suggested that perhaps we not allow the City to use the funds until the final quarter of 2011. Support for the City request was expressed in terms of the likelihood that it would be very difficult to reestablish this service in the future is if the FREX service was discontinued now. It was also pointed out that interregional connections like this were emphasized by the interim Transit and Rail advisory committee as an issue for the new Division of Transit and Rail.
- We were not asked to take action on this issue yesterday. It will be brought before the Commission next month. The City staff indicated it wanted to provide some indication of the Committee's reaction that it could provide to a City Council meeting next week. I think there was support for allowing the City to use some of the escrow for 2011 operations provided we include some caveats, such as addressing the bus deadheading issue, making a more direct request for RTD funding, and delaying their usage of the funds.
- Finally, Mark reported on some of his activities, including a schedule for acting on the FASTER transit funding selections.

## **Efficiency and Accountability**

Mary Beth Lewis-Baker mentioned that at the Efficiency and Accountability Committee's October meeting they had celebrated the one year anniversary of the committee and began planning for their second year of work.

- She stated that Director George met with the Committee to discuss some of the organizational issues involved with the Committee and that following that discussion, the Committee members agreed that members would serve one year terms running on a calendar year basis. Ms. Lewis-Baker stated that she would have a slightly extended term as chair until elections are held. She explained that in November of each year members would be asked to inform the Executive Director of CDOT of their desire to remain on the Committee and that in December of each year, the Executive Director would inform the Transportation Commission of the appointments to the Committee.
- She declared that an initial draft of the Committee's first annual report to the Legislature was passed out for review and the first annual report would be due to the Legislature in early 2011. She confirmed that discussions on the report would continue at the meeting on Thursday, November 18, 2010.
- Ms. Lewis-Baker said that the Committee had been given an update from CDOT staff in regards to the implementation of the Committee's recommendations for improvements to the print shop. She reported that the committee also discussed what new initiatives might be considered in the coming year including the use of more performance measure data.

## **Act on Consent Agenda Act on Consent Agenda**

Chairman Gruen mentioned that the next item was the Approval of the Consent Agenda. He then asked for a motion on the Consent Agenda. Commissioner Aden moved for adoption of the Consent Agenda. Commissioner Parker seconded motion and on a vote of the Commission, the following resolutions were unanimously adopted.

### **Approve the Special & Regular Meeting Minutes of October 20 & 21, 2010**

#### **Resolution Number TC-1919**

BE IT HEREBY RESOLVED, the Transportation Commission's Special and Regular Meeting Minutes of October 20 & 21 are hereby approved as published in the official agenda of the November 17 & 18, 2010 Transportation Commission Meeting.

### **Approve STIP Amendments**

#### **Resolution # TC-1920**

#### **Resolution to Approve STIP Policy Amendment Package for Amendment #31**



WHEREAS, the Colorado Transportation Commission has statutory authority pursuant to 43-1-106, C.R.S. to approve, accept, and amend various planning documents resulting from Section 135 Title 23 of the USC, and 43-1-1101 through 1105 C.R.S.; and

WHEREAS, the Commission adopted the 2008 – 2013 Statewide Transportation Improvement Program (STIP) in March, 2008; and

WHEREAS, the STIP is occasionally amended due to significant changes in project scope or projects need to be programmed in or out of the first four years of the STIP, thereby requiring a policy amendment to the STIP; and

WHEREAS, the Section 450 Title 23 of the CFR requires a public process be implemented for review and comment on proposed policy amendments, as well as Transportation Commission approval of said amendments; and

WHEREAS, the public process for the policy amendments set before the Commission for the month of Amendment #31 was provided from October 15 through November 17, 2010, and no comments were received; and

WHEREAS, it is requested that the Transportation Commission approve these policy amendments to the STIP, which are detailed in the attached table, and direct staff to forward this approval to the Federal Highway Administration and the Federal Transit Administration for concurrence.

NOW, THEREFORE, BE IT RESOLVED, the attached STIP Policy Amendment package for Amendment #31 be adopted and forwarded to the Federal Highway Administration for concurrence.

BE IT FURTHER RESOLVED, after said concurrence is received from the Federal Highway Administration, staff from the CDOT Office of Financial Management and Budget will finalize the policy amendments in the STIP Database.

**Approval of Resolution for an Addition to approved over \$50,000.00 project list**

**Resolution #TC-1921**

**Addition to approved over \$50,000.00 project list**

**WHEREAS**, under Senate Bill 98-148, public projects supervised by the Colorado Department of Transportation (CDOT) are exempt from the requirements of the “Construction Bidding for Public Projects Act;” and

**WHEREAS**, Section 24-92-109, Colorado Revised Statutes, as amended, requires CDOT to prepare cost estimates for projects to be undertaken by CDOT maintenance crews that exceed \$50 thousand, but are less than or equal to \$150 thousand for submission to the Transportation Commission for review and approval; and

**WHEREAS**, CDOT staff have prepared a cost estimate for two additional projects to be done in Fiscal Year 2011 as detailed in the memorandum entitled, Addition to approved over \$50,000.00 project list dated November 4, 2010; and

**WHEREAS**, the funding for this project is contained in the Fiscal Year 2011 Budget.

**NOW THEREFORE BE IT RESOLVED**, the Transportation Commission has reviewed the cost estimate, as contained in the official agenda, and approves CDOT Maintenance Forces undertaking the project therein.

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Copy from Memorandum

The projects listed below are additions to the projects approved by the Transportation Commission in July of 2010. According to state law and PD 1000.0, these types of projects must be approved by the Transportation Commission before the work can be undertaken. I request that this list be presented for approval at the November 2010 Transportation Commission meeting so that the work can commence as soon as possible to be completed by June 30, 2011.

Region 4 – Greeley

Highway	Begin MP	End MP	Type	Estimated Cost
34	249.711	NA	Bridge Deck Repair	\$120,000.00
36	40.00	44.5	Crack Seal	\$132,208.00
			Greeley Total	\$252,208.00
			State Total	\$252,208.00

**Approval of Resolution to Authorize an Administrative Procedures Officer to conduct a hearing regarding revisions to the State Highway Access Category Assignment Schedule.**

**Resolution # TC- 1922**

**Authorize an Administrative Procedures Officer to conduct a hearing regarding revisions to the State Highway Access Category Assignment Schedule.**

**WHEREAS**, section 43-2-147(4) C.R.S., directs the Transportation Commission of Colorado ("Commission") to adopt a state highway access code ("Code"), by rule and regulation concerning the management of vehicular access to and from state highways from or to property adjoining the state highway with such management to be based in part on a functional classification of highways; and

**WHEREAS**, in 1998, the Commission adopted the Code and in 1999, the Commission subsequently adopted a State Highway Access Category Assignment Schedule ("Schedule") which assigned a functional access classification category to every segment of the Colorado State Highway System; and

**WHEREAS**, the Code directs the Department of Transportation (“Department”) to initiate a rule-making proceeding in accordance with the Administrative Procedures Act, section 24-4-103 C.R.S., when local governments make requests for revisions to access category assignments and the Department staff did so in accord with applicable requirements; and

**WHEREAS**, the Department staff recommends revising the Schedule to reflect previous highway abandonment actions, administrative revisions to highway references, new highway construction projects and to reflect current conditions; and

**WHEREAS**, the Department staff has prepared and submitted proposed revisions deemed necessary to be responsive to local government requests, to update the rules to reflect abandonments, revised highway references, administrative changes and current conditions; and

**WHEREAS**, the Commission agrees that consideration of revisions to the Schedule is appropriate; and

**WHEREAS**, the Transportation Commission has the authority to conduct the rule making hearing pursuant to §43-1-108, C.R.S., or to delegate the authority to an Administrative Hearing Officer for the purposes of conducting the rule making hearing, making a complete procedural record of the hearing, and submitting that record and any recommendations back to the Transportation Commission for its review and action concerning the promulgation of the rules; and

**NOW THEREFORE BE IT RESOLVED**, the Transportation Commission authorizes staff to prepare a draft of proposed rule amendment, and to take all necessary actions in accordance with the APA, § 24-4-103 C.R.S. to initiate rule making for the purpose of promulgating the rules.

**BE IT FURTHER RESOLVED**, the Transportation Commission delegates its authority to conduct the rule making hearing to a CDOT administrative procedures officer and hereby directs the Hearing Officer to prepare a complete record of the hearing and forward said record to the Transportation Commission for consideration and its adoption of the proposed rules.

### **Discuss and Act on Resolution for the 6th Budget Supplement**

Ben Stein addressed the Commission and reported that he had one item not included in the original budget that was sent for review. He reported that the item was a walk on item for Gore Creek Bridge and that the original estimate had been increased from \$300,000 and increased to \$425,000. Ben asked if there were questions and requested approval of the 6<sup>th</sup> Budget Supplement.

Commissioner Erickson motioned for the 6<sup>th</sup> Budget Supplement to be approved and the motion was seconded by Commissioner Parker. On a vote of the Commission, the Budget Supplement was passed unanimously.

Commissioner Aden mentioned that he had a question about the Contingency and wanted to refer to where it was drawn down to the \$50M level and then the entries including a loan to Division Rail and Transit and wanted to confirm if that loan was and advancement of the FTA money that it would later be returned to the Commission when it is received from FTA. Ben confirmed that this was exactly the case and that the FTA money had been requested and was expected to be returned very quickly.

**Resolution # TC-1923**

**6<sup>th</sup> Supplement to the FY 2011 Budget**

BE IT RESOLVED, that the Sixth Supplement to the Fiscal Year 2010-2011 Budget be approved by the Commission.

**Approval of the Resolution for the Draft of the Proposed FY 2011-2012 Budget**

Ben Stein reported that he wanted to present the Resolution to approve the Draft of the Budget and that no changes had been made to the budget since the Budget Workshop on October 20, 2010. Ben stated that he wanted to remind the Commission that the item was to approve the draft that would be presented to the Governor and the General Assembly for their information and that the actual budget to adopt would be presented in March or April.

Chairman Gruen asked for a motion on the Resolution. Commissioner Rogers moved for adoption of the Resolution. Commissioner Reiff seconded the motion and on a vote of the Commission, the following resolution was unanimously adopted.

**Resolution # TC-1924**

**FY 2011-2012 Draft PROPOSED BUDGET**

WHEREAS, in accordance with Section 43-1-113 (2) C.R.S., the Transportation Commission is required to submit by December 15, 2010, a draft budget allocation plan for monies subject to its jurisdiction for the fiscal year beginning on July 1, 2011, to the Joint Budget Committee, the House Transportation and Energy Committee, the Senate Transportation Committee and the Governor for their review and comment; and

WHEREAS, there will be additional opportunities between now and next spring when the Transportation Commission must adopt a final budget allocation plan to monitor the revenue projections and make adjustments;

NOW THEREFORE BE IT RESOLVED, that the Proposed Budget for the Colorado Department of Transportation for the period July 1, 2011 through June 30, 2012 be approved for transmittal to the various legislative committees and the Governor for review and comment.

**Approval of the Resolution to Transfer eligible federal funds from CDOT to the Colorado Bridge Enterprise for the purposes of advancing the business purposes of the Colorado Bridge Enterprise**

Ben Stein reported that he wanted to present the Resolution for the intent of the Transportation Commission, on a continuing basis, transfer \$15M of Federal Funds to the Bridge Enterprise.

Chairman Gruen asked for a motion on the Resolution. Commissioner Reiff moved for adoption of the Resolution. Commissioner Aden seconded motion and on a vote of the Commission, the following resolution was unanimously adopted

**RESOLUTION # TC-1925**

**Transfer of eligible federal funds from CDOT to the Colorado Bridge Enterprise for the purposes of advancing the business purposes of the Colorado Bridge Enterprise**

WHEREAS, the Transportation Commission is charged with formulating the general policy with respect to management, construction and maintenance of public highways and other transportation systems in the State; and

WHEREAS, the Transportation Commission promulgates and adopts all budgets for the Colorado Department of Transportation (CDOT) and state transportation programs; and

WHEREAS, CDOT has the responsibility to plan, develop, construct, coordinate and promote an integrated transportation system within the State; and

WHEREAS, the Colorado General Assembly created the Colorado Bridge Enterprise in C.R.S. 43-4-805 as a government-owned business within CDOT for the business purpose of financing, repairing, reconstructing and replacing Designated Bridges, defined in C.R.S. 43-4-803(10) as those bridges identified as structurally deficient or functionally obsolete and rated poor; and

WHEREAS, the Colorado General Assembly declared and provided that the Colorado Bridge Enterprise shall constitute an “enterprise” for purposes of TABOR, section 20 of article X of the Colorado Constitution, so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenues in grants from all Colorado State and local governments combined; and

WHEREAS, the Colorado General Assembly has excluded federal funds, regardless of whether such federal funds pass through the state or any local government prior to receipt by an enterprise from the definition of “grants” pursuant to C.R.S. 24-77-102(7); and

WHEREAS, CDOT receives federal bridge funds from the US Department of Transportation for purposes of repairing, reconstructing and replacing bridges; and

WHEREAS, the Transportation Commission has previously authorized the transfer of federal bridge funds from CDOT to the Colorado Bridge Enterprise for purposes of advancing the business purposes of the Colorado Bridge Enterprise; and

WHEREAS, the Transportation Commission desires to state its intention, subject to the terms of this resolution, to, in future fiscal years, transfer eligible federal funds from CDOT to the Colorado Bridge Enterprise for the purposes of advancing the business purposes of the Colorado Bridge Enterprise; and

WHEREAS, the Transportation Commission recognizes and respects the legal principle that it cannot bind future Transportation Commissions with respect to budgetary and policy decisions, recognizes that it cannot agree, in advance, to allocate and transfer eligible federal funds to the Colorado Bridge Enterprise in future years and agrees that any decision as to whether or not to allocate and transfer such funds to the Colorado Bridge Enterprise shall be made by the Transportation Commission, in its sole discretion, in the year in which the transfer is to occur.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission of Colorado expresses its intent to consider allocating and transferring from CDOT to the Colorado Bridge Enterprise fifteen million dollars (\$15,000,000) of eligible federal funds in each year for the purposes of advancing the financing, repair, reconstruction, and replacement of Designated Bridges by the Colorado Bridge Enterprise. The Transportation Commission hereby directs the Executive Director to include the allocation and transfer to the Colorado Bridge Enterprise of the stated dollar amount of eligible federal funds in the budget proposal submitted to the Transportation Commission each year, it being the Transportation Commission's intention that any decision as to whether or not to allocate and transfer such funds in any year shall be made by the Transportation Commission, in its sole discretion, in the year in which the transfer is to occur.

**Approval of the MOU with FHWA establishing the process for using eligible federal funds to pay debt service costs of the Colorado Bridge Enterprise**

Ben stated that the Memorandum of Understanding with FHWA is a draft and that it would be for 100 projects and that he is hoping to get approval from FHWA to do a the projects a few at a time by category.

Chairman Gruen asked for a motion on the Resolution. Commissioner Parker moved for adoption of the Resolution. Commissioner Rogers seconded motion and on a vote of the Commission, the following resolution was unanimously adopted

**RESOLUTION #TC-1926**

**Memorandum of Understanding with FHWA establishing the process for using eligible federal funds to pay debt service costs of the Colorado Bridge Enterprise**

WHEREAS, the Transportation Commission is charged with formulating the general policy with respect to management, construction and maintenance of public highways and other transportation systems in the State; and

WHEREAS, the Transportation Commission promulgates and adopts all budgets for the Colorado Department of Transportation (CDOT) and state transportation programs; and

WHEREAS, the CDOT Executive Director has the responsibility to plan, develop, construct, coordinate and promote an integrated transportation system in cooperation with federal and other agencies; and

WHEREAS, the Colorado General Assembly created the Colorado Bridge Enterprise in C.R.S. 43-4-805 as a government-owned business within CDOT for the business purpose of financing, repairing, reconstructing and replacing Designated Bridges, defined in C.R.S. 43-4-803(10) as those bridges identified as structurally deficient or functionally obsolete and rated poor; and

WHEREAS, the Colorado Bridge Enterprise intends to issue bonds for the purpose of financing, repairing, reconstructing and replacing Designated Bridges and desires to use eligible federal funds made available by CDOT to the Colorado Bridge Enterprise to pay debt service costs as allowed under 23 U.S.C. 122; and

WHEREAS, the Federal Highway Administration and CDOT have developed a Memorandum of Understanding for Accounting for Faster Bridge Program Debt Service Reimbursements;

NOW THEREFORE BE IT RESOLVED, the Transportation Commission approves execution by the Executive Director of CDOT of the Memorandum of Understanding with FHWA establishing the process for using eligible federal funds to pay debt service costs of the Colorado Bridge Enterprise.

### **Approval of the Resolution for the Bridge Inspection and Maintenance Agreement**

Ben Stein said that the Bridge Enterprise works its processes and procedures through CDOT and not create new overhead. He said that in an effort for doing this, the ongoing maintenance and inspection of the bridges will go on just as it has been however, the bridges are now owned by the Colorado Bridge Enterprise and there needs to be an agreement to reimburse CDOT for its expenses in this regard. Ben told the details of prices obtained and stated that on a quarterly basis the intent will be to reimburse CDOT for the work. He requested approval of the Resolution for the agreement.

Chairman Gruen asked for a motion on the Resolution. Commissioner Erickson moved for adoption of the Resolution. Commissioner Reiff seconded motion and on a vote of the Commission, the following resolution was unanimously adopted.

### **RESOLUTION #TC-1927**

### **Bridge Inspection and Maintenance Agreement**

WHEREAS, the Colorado Bridge Enterprise was created by the “Funding Advancements for Surface Transportation and Economic Recovery Act of 2009” (“FASTER”), cited as Chapter 5, Session Laws of Colorado 2009, First Regular

Session, 67<sup>th</sup> General Assembly, as a government-owned business within the Colorado Department of Transportation (“CDOT”); and

WHEREAS, FASTER identifies the business purpose of the Bridge Enterprise to include financing, repairing, reconstructing, and replacing any Designated Bridge (as defined by Section 43-4-803(10)), in the State, and as agreed upon by the Bridge Enterprise and the Transportation Commission, or CDOT to the extent authorized by the Transportation Commission, to maintain the Designated Bridges it finances, repairs, reconstructs, and replaces; and

WHEREAS, CDOT and the Bridge Enterprise have previously executed a Master Agreement effective January 21, 2010 (the “Master Agreement”) which sets forth terms and conditions for interaction between CDOT and the Bridge Enterprise in furtherance of the Bridge Enterprise’s business purposes and to preserve the status of the Bridge Enterprise as an “enterprise” under Section 20 of Article X of the Colorado Constitution; and

WHEREAS, Article Three of the Master Agreement provides for a separate maintenance agreement between CDOT and the Bridge Enterprise providing the terms of each party’s maintenance obligations with respect to Designated Bridges transferred by CDOT to the Bridge Enterprise; and

WHEREAS, in furtherance of the business purposes of the Colorado Bridge Enterprise and additionally to preserve the status of the Colorado Bridge Enterprise as an “enterprise” within CDOT under section 20 of article X of the State Constitution, the Colorado Transportation Commission has determined it is necessary and convenient to enter into a written agreement with the Bridge Enterprise, to define and provide for the roles, responsibilities and powers of CDOT and the Bridge Enterprise relating to inspection and maintenance of Designated Bridges in the State.

NOW THEREFORE BE IT RESOLVED, the Colorado Transportation Commission approves execution by the Executive Director of the Agreement for Bridge Inspection and Routine Bridge Maintenance by and between CDOT and the Bridge Enterprise.

### **Approval of the Resolution for the HPTE-CDOT Agreement**

Mike Cheroutes, Director of the HPTE stated that the item in question was symmetrical to the action taken by the HPTE at its last meeting authorizing the agreement and the purpose of the agreement to establish the foundation for the TABOT separation of the Bridge Enterprise from CDOT and it is essentially identical agreement that CDOT has with the Bridge Enterprise and separates function, tracks transfers, and provides for maintenance of TABOR exempt status. He requested approval of the Resolution for the Agreement between HPTE and CDOT.

Chairman Gruen asked for a motion on the Resolution. Commissioner Rogers moved for adoption of the Resolution. Commissioner Aden seconded motion and on a vote of the Commission, the following resolution was unanimously adopted.



**Resolution #TC -1928**  
**HPTE-CDOT Agreement**

**WHEREAS** the General Assembly created the Colorado High Performance Transportation Enterprise (HPTE) as a government-owned business within the Colorado Department of Transportation (CDOT), pursuant to Section 43-4-806 C.R.S.; and

**WHEREAS** the purpose of the HPTE is to aggressively pursue innovative means of more efficiently financing important surface transportation projects that will improve the safety, capacity, and accessibility of the surface transportation system, can feasibly be commenced in a reasonable amount of time, will allow more efficient movement of people, goods, and information throughout Colorado, and will accelerate the economic recovery of Colorado; and

**WHEREAS** such innovative means of financing projects include, but are not limited to, public-private partnerships, operating concession agreements, user fee-based project financing, and availability payment and design-build contracting; and

**WHEREAS** pursuant to 43-4-806(2)(d) C.R.S., the HPTE is to operate as a government-owned business within CDOT and shall constitute an “enterprise” for purposes of Section 20 of article X of the State Constitution so long as the HPTE retains authority to issue revenue bonds and receives less than ten percent (10%) of its total annual revenues in grants from all Colorado state and local governments combined; and

**WHEREAS** FASTER (Section 43-4-806(6)(f), C.R.S.) authorizes the HPTE Board to enter into agreements with the Transportation Commission or CDOT, to the extent authorized by the Transportation Commission; and

**WHEREAS** in furtherance of the business purposes and additionally to preserve the status of the HPTE as an “enterprise” under Section 20 of article X of the State Constitution, the Transportation Commission has determined it necessary and convenient for CDOT to enter into an agreement with the HPTE to define and provide for the roles, responsibilities, and powers of CDOT and the HPTE relating to innovative means of more efficiently financing important surface transportation projects in Colorado; and

**NOW THEREFORE BE IT RESOLVED:** the Colorado Transportation Commission hereby approves the Intergovernmental Agreement between CDOT and the HPTE.

**Approval of the Resolution urging Congress to pass a full fiscal year 2011 authorization and appropriations extension**

Mickey Ferrell reported that the purpose of the Resolution is that now that Congress has returned to Washington, D.C. from the elections, they have to act upon the remaining business of the 111th congress which expires at the end of the calendar year. He stated that the part that concerns transportation is the H.I.R.E. Act which

was passed in April 2010. He stated that the Act allowed an authorization extension to go through the end of the 2010 calendar year. He declared that prior to the elections, the FY 2011 appropriations bills were only extended through December 3, 2010 and he said so, Congress has to take action prior to December 3, 2010 to extend the appropriations bill and likely the authorization bill. He stated that the Resolution urges the Colorado Congressional Delegation and Congress as a whole to pass a long term extension through the end of the Federal Fiscal year.

Chairman Gruen asked for a motion on the Resolution. Commissioner Parker moved for adoption of the Resolution. Commissioner Erickson seconded motion and on a vote of the Commission, the following resolution was unanimously adopted.

**RESOLUTION # TC -1929**

**Urging Congress to pass a full fiscal year 2011 authorization and appropriations extension**

**Whereas**, the Colorado construction industry has experienced an unemployment rate of 19% over the last two years that is expected to continue through 2011; and

**Whereas**, Congress passed a transportation authorization extension through the Hiring Incentives to Restore Employment (HIRE) Act though December 31, 2010; and

**Whereas**, the Transportation Commission adopted a fiscal year 2011 budget which anticipates federal highway revenues to Colorado of \$349.29 million; and

**Whereas**, 86.5% of the American Recovery and Reinvestment Act of 2009 (ARRA) projects will be fully constructed by next construction season, thus effectively ending the 'stimulus' bill for highway transportation in Colorado; and

**Whereas**, if Congress passes an extension of authorization and appropriations through a continuing resolution or omnibus appropriations bill, Colorado may see an increase in federal funds for fiscal year 2011; and

**Whereas**, Colorado would best be able to utilize additional federal funds to create jobs and improve Colorado's transportation infrastructure through a full year extension rather than multiple extensions throughout the year; and

**Whereas**, planning for and constructing transportation projects requires a stable long term funding source; and

**Whereas**, the Transportation Commission strongly opposes short-term authorization and appropriation extensions for the remaining portion of federal fiscal year 2011.

**NOW THEREFORE BE IT RESOLVED**, the Transportation Commission urges Congress to pass a full fiscal year 2011 authorization and appropriations extension in the remaining portion of the 111<sup>th</sup> Congress to ensure new projects are able to be advertised for construction in the 2011 construction season which will prevent unnecessary added unemployment in Colorado.

## **Acknowledgements**

Chairman Gruen introduced Elena Wilken, the Executive Director of the Colorado Association of Transit Agencies (CASTA) Elena stated that it was her great pleasure to acknowledge Jennifer Finch's work on the Division of Rail and Transit and to present her the 2010 Colorado Transit Champion Award which was given out at the fall conference and Jennifer was not able to make it to the conference. She stated many words of appreciation for Jennifer and presented the award to her. Jennifer thanked Elena and the group in attendance.

## **Other Matters**

### **Historian Presentation given by:**

- **Lisa Schoch, CDOT Senior Staff Historian**
  - **How the building of the Straight Creek tunnel (today's Eisenhower-Johnson Tunnels) transformed Colorado**

Lisa Schoch presented a PowerPoint that included many interesting photos and maps from the period of construction of the Straight Creek Tunnel through the Continental Divide.

## **Adjournment**

The meeting was adjourned at 11:15 a.m.

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Herman Stockinger, Secretary  
Transportation Commission of Colorado